

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

MAR 17 2014

DECISION AND ORDER

DELROY ANDERSON,

LONG ISLAND OFFICE

Docket No.: 2:11CR00062

Defendant.  
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Upon the reading and filing the Motion of the Defendant herein, DELROY ANDERSON, and the reading of the Opposition thereto by the Government,

NOW, upon the Motion of KENNETH S. FERARU, ESQ., the attorney for the Defendant, DELROY ANDERSON, it is hereby

ORDERED that the Defendant's Motion to Dismiss the Violation of Supervised Release is determined as follows:

The Defendant seeks to have his violation of supervised release dismissed. The Defendant's argument is that the Court has no jurisdiction over the alleged violation, because no summons or warrant was issued within the term of the supervised release, and therefore was not timely. See, 18 U.S.C. §3583 (i). The Government opposes the Motion on the grounds that the requirement of issuing a Summons was satisfied by the Court directing the issuance of a Summons upon a specific petition from the United States Probation Department. It is uncontroverted that no summons containing a direction for the Defendant to appear in Court at a specific date and time issued prior to the expiration of the term of the supervised release.

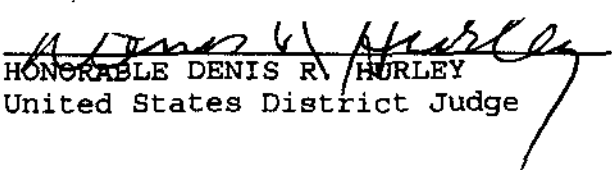
Because the Petition did not order the Defendant to appear in Court, it cannot be construed as a Summons or a Warrant. The Petition was an order for someone else to issue a Summons at some future time, but was not in itself a Summons or a Warrant. Therefore, the Court has no jurisdiction over this matter. *United States v. Janvier*, 599 F.3d 564 (2nd Cir. 2010).

The Defendant's Motion is therefore GRANTED, and the Violation of Supervised Release is dismissed.

The foregoing constitutes the Decision and Order of the Court.

Dated: Central Islip, New York  
March 17, 2014

SO ORDERED:

  
HONORABLE DENIS R. HURLEY  
United States District Judge